IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Revision No. 6733 of 2005
Date of decision: 15.09.2006

Surinder Singh & others

..... Petitioners.

Versus

State of Punjab & others

..... Respondents.

CORAM: HON'BLE MR. JUSTICE P.S. PATWALIA

Present:- Mr. Naresh Kaushal, Advocate
for the petitioners.

Mr. G.C. Gupta, DAG, Haryana

P.S. PATWALIA, J. (ORAL)

The present revision petition has been filed against the order dated 12.11.2005, vide which an application filed by the applicant in a land reference under Section 18 of the Land Acquisition Act, 1894 for amendment was disallowed.

Learned counsel for the petitioners states that the entire evidence in the reference was over and the case was kept for arguments for 24.08.2005. On that date, it could not be argued and was adjourned further for arguments. It was thereafter that 15.09.2005 an additional issue was framed "As to whether or not the reference was filed within limitation?"

After framing of this issue, the petitioners-applicants in the

reference filed an application for amendment whereby they desired to add one para in their reference, which is as under:-

> "That the applicants were not present/given any notice with regard to the passing of the award dated 11.4.89 nor the contents thereof were conveyed to them by the Collector. No notice as required under Section 12(2) of the Land Acquisition Act, 1894 was ever served upon the applicants/ claimants. The applicants came to know with regard to the passing of the Award on 11.12.1989 when they got the cheque with regard to compensation and deposited the same in the Bank. As such from the aforesaid date, the reference has been filed well within the period of limitation."

This amendment has been disallowed on the ground that a request for amendment could not have been allowed after trial had commenced.

Counsel for the petitioners submits that it was after great efforts that the petitioners were able to produce various sale instances as a result of which compensation was likely to be enhanced. It was at the fag end of the case that an additional issue regarding limitation was framed. Therefore, it was at that stage that an application for amendment of the reference was made, so that the issue of limitation could be effectively met and the claim for enhance compensation be not denied to the claimants on that ground alone. Counsel for the petitioners submits that the claimants should have been permitted to make the said amendment so that they could effectively plead their case on the plea of limitation and to secure a just and proper compensation for the land

which had been compulsorily acquired. On the other hand, learned counsel for the respondents submits that the view taken by the Court is just and fair and warrants no interference in the revision petition.

After hearing counsel for the parties and going through the records, I am of the opinion that the claimants should be allowed to amend the reference to add the paragraph as reproduced herein above. This would enable the claimants to substantiate their case that the claim set up is not barred by limitation. It would ensure that the claim if genuine is not rejected on the technical plea of limitation alone without giving the claimants an adequate opportunity to rebut the same.

I, therefore, allow this revision petition. The order dated 12.11.2005 declining the application for amendment is set aside. The petitioners are permitted to add the aforesaid paragraph in their claim petition. The learned Additional District Judge, Rupnagar would now proceed in the matter from this stage onwards in accordance with law.

September 15, 2006 (P.S. PATWALIA)
dinesh JUDGE